



**HISTORIC LANDMARK COMMISSION MEETING MINUTES
2ND FLOOR, CITY COUNCIL CHAMBERS
CITY HALL BUILDING, TWO CIVIC CENTER PLAZA
OCTOBER 22, 2012
4:00 P.M.**

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 2nd Floor, City Hall Building, October 10, 2012, 4:00 p.m.

The following commissioners were present:

Commissioner Cesar Gomez
Commissioner Stephanie Fernandez
Commissioner Joel Guzman, Interim Chairman
Commissioner Randy Brock
Commissioner Beatriz Lucero

The following City staff members were present:

Ms. Providencia Velázquez, Planning, Historic Preservation Officer
Mr. Tony De La Cruz, Planning, Planner
Ms. Kristen Hamilton, City Attorney's Office, Assistant City Attorney
Mr. Mathew McElroy, City Development Director

Ms. Velázquez explained our current Chairman, Jim Booher, had his term expire. Our Vice-Chairman, David Berchermann was unable to attend due to a prior commitment. Ms. Velázquez then asked Commissioner Guzman to act as Interim Chairman just for this meeting.

Interim Chairman Guzman called the meeting to order at 4:06 p.m., quorum present.

CHANGES TO THE AGENDA

Ms. Velázquez noted no changes to the agenda.

I. CALL TO THE PUBLIC – PUBLIC COMMENT

None.

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II. REGULAR AGENDA – DISCUSSION AND ACTION

1. Reminder of Ethics Training

<http://home.elpasotexas.gov/city-attorney/ethics.php>

Ms. Velázquez reminded commissioners of the December 31st deadline to complete the mandatory Ethics Training for Board Members/Commissioners/Elected Officials. Ms. Velázquez asked commissioners to send her an email notifying her that they had indeed completed the ethics training. Should commissioners not complete the mandatory Ethics Training commissioners will be removed from the Historic Landmark Commission.

Certificate of Appropriateness (Reconsideration)

2. PHAP12-00024: The South 7 Feet of Lot 23 all of Lot 24 and the North 10.5 Feet of Lot 25, Block 19, Sunset Heights Addition, City of El Paso, El Paso County, Texas
- Location: 1526 Lawton
- Historic District: Sunset Heights
- Property Owner: Julian Muñoz
- Representative: Brenda Muñoz
- Representative District: 8
- Existing Zoning: R-4/H (Residential/Historic)
- Year Built: 1928
- Historic Status: Contributing
- Request: A modification to a previously approved certificate of appropriateness for the construction of an addition to the rear yard.
- Application Filed: 10/8/12
- 45 Day Expiration: 11/22/12

Ms. Velázquez gave a presentation and explained the applicant seeks approval for a modification to a previously approved certificate of appropriateness for the construction of an addition to the rear yard. The Historic Preservation Office recommends **APPROVAL** of the proposed scope of work based on the following recommendations:

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The Magoffin Historic District Design Guidelines recommend the following:

- Any new construction must be compatible in size, texture, color, design, proportion and detail to adjacent buildings and streetscapes.
- New structures should respect the integrity of existing buildings.
- Setbacks, proportion, rhythm, and building elements should all be addressed.

The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- New construction will not destroy historic materials, features, and spatial relationships that characterize the property.

Ms. Velázquez noted that because this is a structural permit it must be reviewed by the HLC. This is a very simple addition to what was previously approved. The proposed remodeling will not be readily seen from the public right of way. It will be located towards the rear of the property. Furthermore, the addition had been approved back in July, 2012.

Interim Chairman Guzman asked if commissioners had any comments or questions regarding the request. There were none.

Interim Chairman Guzman asked if there was anyone in the audience that was in favor of or in opposition to the proposed requested. There was none.

Motion made by Interim Chairman Guzman, seconded by Commissioner Gomez
AND UNANIMOUSLY CARRIED TO APPROVE.

Certificate of Demolition

3. PHAP12-00040: Parcel 1: The westerly 50.0 Feet of Lot 22, Block 4, Map of Anson Mills, City of El Paso, El Paso County, Texas. (230 N. Mesa)
Parcel 2: A Parcel of land being a portion of Block 4, Mills Map, El Paso County, Texas and also being those parcels recorded in book 4449, pages 266, 277 and 282 and described as the north 60 feet 8 inches of Lot 23 and in instrument #20060067064, described

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as the south 26 feet of Lot 23, El Paso County Clerks
Records, both parcels together being all of Lot 23,
Block 4, City of El Paso, El Paso County, Texas.
(218 – 222 N. Mesa)
Location: 218-222 N. Mesa, 230 N. Mesa
Historic District: Downtown
Property Owner: Muir Kipp Trust Estate, BCT Realty Operating
Limited Partnership
Representative: W. David Bernard
Representative District: 8
Existing Zoning: C-5/H
Year Built: Parcel 1 - c. 1915
Historic Status: Parcels 1 and 2 – Non-contributing
Request: Certificate of demolition
Application Filed: 10/1/12
45 Day Expiration: 11/29/12

PARCEL 1 – MUIR BUILDING

Ms. Velázquez gave a presentation and explained the applicant seeks approval for the demolition of the existing structures located on Parcel 1. The Muir Building is a Trost Building; unfortunately the building has been altered. The building was designated non-contributing at the time the Downtown Historic District was designated. The original Trost design for the Muir Building denoted a 14 story building, however, the structure was only built to three stories.

PARCEL 2

Regarding Parcel 2, staff was unable to locate any historical information.

Ms. Velázquez showed maps of the Downtown Historic District. She stated that non-contributing properties do not have to abide by the Downtown Historic District Design Guidelines. Ms. Velázquez explained the application states that following demolition the sites will be cleared and graded in preparation for redevelopment. Applicants will cooperate with the City of El Paso to provide landscaping and/or aesthetic amenities on the sidewalks and/or periphery of the site pending redevelopment plans.

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The Historic Preservation Office recommends **APPROVAL** of the proposed scope of work based on the following recommendations:

The properties are not Recorded Texas Historic Landmarks, National Historic Landmarks or listed in the National Register of Historic Places.

The properties have been so altered that they are no longer the embodiment of distinguished characteristics of an architectural type or specimen; can no longer be identified as the work of an architect or master builder whose individual work has influenced the development of the city; and no longer embody distinguished elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.

The properties are non-contributing and have almost no relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural, historic or cultural motif.

The properties no longer portray the environment of a group of people in an area of history characterized by a distinctive architectural style.

Ms. Jaime Gallagher, Senior Vice-President, Borderplex Community Trust, a private real estate investment trust formed in 2006. Ms. Gallagher gave a presentation to include background information regarding Borderplex Community Trust. She noted that the specific purpose of Borderplex Community Trust is investing in and revitalizing Downtown El Paso. She stated that 100% of Borderplex' portfolio is in Downtown El Paso; furthermore, Borderplex Community Trust is a credible developer in Downtown El Paso with a definitive, strategic business plan all geared towards revitalizing Downtown El Paso (presentation on file).

218-222 and 230 N Mesa St

Borderplex understands that the El Paso Historic Landmark Commission and other groups have expressed their concerns with demolishing the Muir Building specifically because it is a Trost & Trost designed structure. At this time, Ms. Gallagher elaborated on the insight into the internal process on how Borderplex identified the site for redevelopment. Ms. Gallagher elaborated on the due diligence process that the Borderplex Community Trust followed.

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Regarding the *Vacant Building Ordinance*, after registering the building, the City has given Borderplex Community Trust the following options:

1. Maintain – bring it up to the current code if it is going to be occupied;
2. Redevelop – provide a development plan to the City Council; and
3. Demolish – property owners are subject to fines up to \$2,000.00 per day for non-compliance with the ordinance.

DUE DILIGENCE SUMMARY

Ms. Gallagher summarized that through their due diligence process, their conclusion was clear that the building, in existence today, no longer represents the original Trost & Trost design. If the original structure was still in good shape today Borderplex Community Trust would not be here having this conversation.

OPTIONS FOR THE BUILDING

Mr. Frank Desloge, Borderplex Community Trust, gave a presentation regarding the economic viability of developing the property. He explained that, given the mission of Borderplex Community Trust, there were really only two options:

1. Restore
2. Demolish and begin anew.

Per the presentation, Mr. Desloge elaborated on the cost comparison of the two options. He clarified that Borderplex Community Trust is the property owner of 218 – 222 N. Mesa (presentation on file).

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PUBLIC COMMENT

1. Mr. Morris Brown, architect and past Historic Landmark Commission member, gave a brief history regarding the Henry Trost architecture surrounding the San Jacinto Plaza. He emphasized that the Muir Building is on a corner of a plaza where four other buildings were designed by one of the most incredible architects in the Southwest, Henry Trost. Furthermore, nowhere else in the world is there a city placita that has every building surrounding it, except one, by the same architect. Mr. Brown explained that had the owner of the Mills Building thought to demolish it, we would never have seen the Mills Building the way it is now. Mr. Brown noted that next to the Mills Building is a façade replication of the St. Regis Hotel that was there before. In conclusion, Mr. Brown requested commissioners take a moment and consider the options and protect what is in the historic district. Additionally, Mr. Brown requested commissioners save the Muir Building façade as a part of Henry Trost's legacy.
2. Ms. Marshall Carter Tripp, El Paso County Historical Commission, strongly endorsed Mr. Brown's comments regarding trying to preserve the façade and whatever is built behind the Muir Building. She noted preserving the façade would be respectful architecture.
3. Mr. Kevin Gold, student at Texas Tech College of Architecture, reiterated what Mr. Brown stated. He stated that if Borderplex Community Trust really wanted to be a part of the community they could find a creative team who could meet their finance goals and preserve the façade. Although the Muir Building is labeled as non-contributing, it is a very significant Trost building due to its position and features. He asked commissioners to take into consideration more than just what is obvious and requested commissioners do what is best for the community.
4. Mr. Joseph Riccillo, past Chairman of the Historic Landmark Commission, asked commissioners to consider the following:
 - a. The definition of a historically or culturally significant building, as defined in the Federal Guidelines (Secretary of the Interior's Standards);
 - b. Is the building a rare survivor of a work by a master architect or craftsman?

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He asked commissioners to review their purpose as a commission in making a decision today or postpone the matter until commissioners could make that decision. If it comes to a point where commissioners must decide between economic development and historic preservation, let City Council make that decision. He noted that commissioners have not been given any details whether or not any of the existing structure exists below the exterior plaster and they were not given any details of what is going to replace the structure. He asked why a historically significant structure would be demolished.

5. Mr. Ricardo Gonzalez, interested citizen and Chairman of the Board of the El Paso Preservation Alliance, pointed out that commissioners are dealing with a district that has a tremendous concentration of buildings designed by one very significant, important architect. In preservation, sometimes you deal with an individual building; that is not the case when you are dealing with a district. The various parts contribute to each other and make one cohesive area that provide to the public a sense of what was, what we were before. He suggested to the commissioners that there is a great deal more detail that remains but has been covered up. A dedicated architect could discover these details again and restore them; however, that cannot occur if bulldozers demolish the structure. The applicant has not indicated what will replace these buildings but he guessed a parking lot. We have a Downtown historic district that is rich in history and culture, our history, our culture that many grew up with. We have a Downtown that is ready to be restored, not necessarily to be demolished and redone. The saving of historic properties, culture and history is never convenient but is well worth it to the community.
6. Mr. David Bernard, attorney, ScottHulse, representing the applicant, stated Borderplex Community Trust does not have any adversaries in this case. He explained Borderplex is very much in favor of preserving legitimate, historical buildings in the Downtown area. He explained denying the request to demolish is not a practical solution for the owner or the city. He noted that the role of the commission is to balance the desire to have historic preservation with the desire to allow redevelopment and revitalization to continue in a very important area of the city. Mr. Bernard commented on the following incontrovertible facts:
 1. Property has been classified non-contributing since 1992;

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2. City Council statutorily designated the building non-contributing;
 3. The historic fabric of the building has largely been destroyed;
 4. Restoration of the structure is not feasible;
 5. The purpose of the Vacant Building Ordinance, passed by City Council August, 2010:
 - a. Is to ensure that vacant buildings are maintained in compliance with City Code;
 - b. To encourage their rehabilitation or demolition in efforts to minimize wider community deleterious effects;
 - c. The City Council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become a harborage for rodents, an invitation for illegal occupancy and for illegal activities, as well as, a fire hazard and that unkempt grounds surrounding the property invite dumping of commercial rubbish, residential blight, depress market values of surrounding properties, they generally remain detrimental to the public good. It is the finding of the City Council that buildings that remain vacant are unsightly, unsafe and have a significant and negative effect on their surroundings;
 - d. In order to protect the health, safety, morals and welfare of the citizens of the City of El Paso to preserve and enhance livability, preserve property values of surrounding buildings and to ensure that buildings are promptly rehabilitated or demolished as appropriate. It is the policy of the City to address vacant building rehabilitation or demolition in accordance with due process requirements.
- Mr. Bernard stated the Vacant Building Ordinance dictates two alternatives: rehabilitation or demolition. The owner is proposing demolition in order to redevelop the site in an economically feasible way and in order to comply with the Vacant Building Ordinance. The building has been vacant for four years. He noted that the Mills Building was a designated landmark. In conclusion, what we've got is an attempt to reclassify this property on the spot, an attempted ad-hoc reclassification of the property. He stated that this is a very dangerous process. In summary:
- i. Non-contributing for 20 years;
 - ii. Restoration is not economically feasible;

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- iii. The historic fabric of the building has been altered and destroyed;
 - iv. Denial will create an unreasonable hardship for the owner;
- Lastly, Mr. Bernard urged commissioners to think about their responsibility to establish a practical, useful precedent on how we treat non-contributing buildings. Borderplex Community Trust respectfully requests commissioners approve the application for demolition.*

END OF PUBLIC COMMENT

Commissioner Fernandez requested confirmation, if there is new construction on that site, would that new construction be presented before the commission.

Mr. De La Cruz responded non-contributing buildings do not have to abide by the guidelines of the Downtown Historic District. Therefore, the answer would be no. There are separate sets of guidelines, apart from the Downtown Historic District guidelines that the applicant would have to abide by for example, the Downtown 2015 Guidelines. Additionally, if the applicant wishes to apply for any of the incentives that the city offers for Downtown redevelopment, those guidelines would have to be adhered to.

Interim Chairman Guzman asked:

1. Is the property more marketable if the building is demolished;
 2. Is there a way to approve the demolition on the condition that the demolition permit of the first floor would not be issued until the plans come in; and
 3. Would the applicant consider preserving the façade?
-
1. Mr. Bernard responded Borderplex Community Trust is not in the business of operating surface parking lots. The amount of money they would have in this site, after the demolition, precludes any thought that the ultimate goal would be to maintain it as an asphalt parking lot. The plan would be to redevelop it as a mixed-use project with retail on the ground floor and other uses on the upper floors. It would be done in such a way that Borderplex Community Trust would increase the density of the development so that you could achieve the returns you need for that type of investment. Due to confidentiality considerations, the attorneys are prevented from giving more details of the redevelopment.
 2. In response to Interim Chairman Guzman's second question, Mr. Mathew

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McElroy explained this is not like a zoning condition where you have that discretionary ability. It is either you believe the demolition is warranted or not. He explained that there are very specific rules governing development in Downtown. If you develop to the guidelines in the Comprehensive Plan, it ensures urban development types downtown. If you build that way downtown you receive waivers of all permit fees, rebates of the City's portion of sales tax for 10 years, with the ability of the City to participate in public improvements up to \$500,000.00, and it allows for the City to abate property taxes for up to 10 years. The City not only has the development guidelines in the Downtown Plan, it also has the development guidelines in the Comprehensive Plan, and it also incentivizes development in the downtown. He assured commissioners that there are very detailed guidelines for what will be put back in that space and it will be urban in style.

3. Commissioner Fernandez explained that in some venues of preservation creating a façade without having the actual architecture or spatial configuration is somewhat like a fake preservation. If it's only a façade you are still losing the original architecture integrity. Commissioner Fernandez is not in agreement with the façade approach to preservation, whereby you can do whatever you want to the building as long as you keep the façade in place. Commissioner Fernandez explained there needs to be more evidence other than the building being designed by Henry Trost. Additionally, another challenge for this structure is that it has been stuccoed over. She commented on the four criteria in designating a structure as contributing.

Commissioner Gomez was concerned that commissioners did not have any plans to review what is proposed to be on the site.

Mr. Bernard reiterated he was not in the position to give many details on the redevelopment plan due to confidentiality. However, there is a plan to redevelop the site as mixed-use with greater density than the current square footage.

Mr. Morris Brown explained applications that come before the commission usually have plans associated with it. He commented on a home in the Austin Terrace Historic District that took the property owner one year to restore. This is dangerous and difficult. This is a historic district and the citizens have said it is a

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historic district because it is important. He stated whether or not commissioners like the way he designed it, he was trying to offer another solution.

Interim Chairman Guzman explained that commissioners are in a unique situation in that commissioners want to balance historic preservation and economic development specifically in Downtown. Commissioners are in an even more unique situation in that this is a non-contributing property. Legal counsel has informed commissioners that this should not be held to the same standard as the non-contributing home in Austin Terrace, for example. From his standpoint, he would like to keep Downtown development moving. He felt there is very good protection for the historic contributing properties. He also felt that there was a balance, made by City leaders in the 1990s, to consider these properties non-contributing.

1ST MOTION:

Motion made by Interim Chairman Guzman to approve. *There was no second to the motion. Motion died due to lack of a second.*

2ND MOTION:

Motion made by Commissioner Gomez to table the application so that the commissioners could get more information from Borderplex Community Trust. *There was no second to the motion. Motion died due to lack of a second.*

Mr. De La Cruz reminded commissioners that a detailed site plan or any other type of development for this specific project cannot be tied to the demolition. It is a request the commission can make, even if they came in with a different configuration or provided site plan. This commission cannot tie a site plan or development to this demolition request.

Ms. Hamilton explained commissioners can either approve or deny, in whole or in part, or suspend the action for a period not to exceed six months per the City Code regarding demolition.

Mr. Riccillo stated that although Mr. De La Cruz is correct, that does mean commissioners cannot propose something. He felt it was suspect that the property owner would not divulge the intent of the site. Mr. Riccillo

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explained that if there was a plan or an idea of what was to be there, that might be worth something to take into consideration for demolition of the structure.

Mr. Bernard responded if any clarification is required the situation with the existing owner is not complicated. We have the property under contract. If our application for demolition is approved, we will purchase the property; we will then own all the properties that are subject to the application. We will then redevelop the property into some type of nice, respectful project of our City, located across from the San Jacinto Plaza project.

Interim Chairman Guzman explained should commissioners deny the request Mr. Bernard could go to the City Clerk's office and file an appeal to City Council.

Mr. Bernard responded we respect your viewpoint; you have an interest in historic preservation. However, this building has been vacant for over 20 years. You run the risk of creating a real deterrent to revitalization if non-contributing properties are treated as landmarks. He asked commissioners to vote it up or down but keep his comments in mind.

Mr. De La Cruz read into the record *Section 20.20.120.A. Historic landmark demolition or removal*. To reiterate what Ms. Hamilton stated, the HLC can suspend an action not to exceed 60 days; however, if the HLC does not take any action on any Certificate of Demolition in 90 days that certificate is deemed approved.

Mr. Ricardo Gonzalez clarified a great deal has been made of the fact that this property is classified as non-contributing. He explained that he was on the Historic Landmark Commission when the Downtown Historic District was established. The treatment of non-contributing properties was basically done to placate one downtown property owner. He clarified that back in 1992 the classification of those properties non-contributing or contributing was created by staff.

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Mr. De La Cruz clarified staff does recommend the boundaries, as well as, different designations for each individual building. *Section 20.20.120.F, Procedure for designation landmark in district* states City Council will use the following designations for individual buildings, objects, sites or property and which are in a historic district or designated with an H-Overlay:

1. Significant Historic Landmark
2. Contributing property
3. Non-Contributing property

Mr. McElroy explained when a historic district is created or a property receives an H-Overlay, those cases are zoning actions and therefore presented to City Plan Commission, City Council, in addition to presentation before the Historic Landmark Commission.

3RD MOTION:

Motion made by Commissioner Gomez, seconded by Commissioner Fernandez to table the request. *No vote was taken. Motion died due to lack of a vote.*

There was discussion amongst staff and commissioners as to how long the request would be tabled.

Prior to the vote, Mr. Bernard requested commissioners vote to approve or deny the request today.

4TH AND FINAL MOTION:

Motion made by Interim Chairman Guzman, seconded by Commissioner Brock **AND UNANIMOUSLY CARRIED TO DENY THIS ITEM.**

4. Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. October 22, 2012 deadline for HLC members to request

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for agenda items to be scheduled for the November 5, 2012 meeting. November 5, 2012 deadline for HLC members to request for agenda items to be scheduled for the November 19, 2012 meeting.

No comments and/or questions from commissioners or staff.

HLC Staff Report

5. Update on Administrative Review Cases since the last HLC meeting for the properties listed on the attachment posted with this agenda.
(See Attachment "A")

Interim Chairman Guzman asked staff about the 311 E. Franklin property.

Ms. Velázquez responded this is the Gardner Hotel. She explained that El Paso has an inventory, a register and designated properties. The Gardner Hotel is currently undergoing a rehabilitation, it is on the El Paso register and the property owner wanted to know if the building was a candidate for the historic tax exemption. It is a candidate for the historic tax exemption because of its listing on the El Paso register. What is shown on the list is the application for rehabilitation and the application for a tax exemption. The property owner has three years to complete the rehabilitation, and if the rehabilitation is completed to the city's satisfaction, he will be awarded the tax exemption.

MOTION:

Motion made by Interim Chairman Guzman, seconded by Commissioner Fernandez **AND UNANIMOUSLY CARRIED TO APPROVE THE ADMINISTRATIVE REVIEW REPORT.**

Other Business

6. **A.** Approval of Regular Meeting Minutes for October 8, 2012

Interim Chairman Guzman asked commissioners if they had any additions/corrections/revisions. *There were none.*

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Joyce A. Wilson





Motion made by Commissioner Fernandez, seconded by Interim Chairman Guzman and **UNANIMOUSLY CARRIED TO APPROVE THE REGULAR MEETING MINUTES FOR OCTOBER 8, 2012.**

No further comments.

Motion made by Interim Chairman Guzman **AND UNANIMOUSLY CARRIED TO ADJOURN.**

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

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